

## CLAIMS

The following is a complete listing of the claims.

1-13 (Cancelled)

14. (Withdrawn) A method of using at least one phenotypical marker to identify seed with a genetically modified trait comprising:

- i) generating a seed plant mixture comprising:
  - about 90% to about 99.5 % by weight of primary seeds for a transgenic plant variety with a genetically modified trait, said primary seeds having a dominant seed coat color of said plant varietal seeds; and having a first seed coat color genotype; and
  - about 0.5 % to about 10% by weight of secondary seeds with or without a genetically modified trait, said secondary seeds being of the same plant species as the primary seeds, wherein the secondary seeds are comprised of seeds of one or more plant varieties, having one or more seed coat color genotypes different from the first seed coat color genotype, and having one or more seed coat color differences from the dominant seed coat color;
- ii) planting and growing the seed plant mixture to produce plants and grain;
- iii) harvesting the grain from the plants;
- iv) taking a seed sample of the grain; and
- v) determining the ratio of the seeds having at least one of the seed coat color differences from the dominant seed coat color in the seed sample,
- vi) comparing the ratio of the seeds having at least one of the seed coat color differences from the dominant seed coat color with the predicted ratio of the seeds having the difference or differences in seed coat color from the dominant seed coat color to identify seed with the genetically modified trait,

- wherein the seed coat color genotypes of the primary and secondary seeds present in the seed plant mixture are known so that the ratio of the seeds having at least one of the seed coat color differences from the dominant seed coat color in a seed sample of grain harvested from plants grown from the seed plant mixture can be predicted.
15. (Withdrawn) The method of claim 14 wherein the secondary seeds are homozygous for a seed coat color different from the dominant seed coat color.
  16. (Previously presented) A method of generating soybean seed heterozygous for seed coat color of cultivars containing proprietary traits, the method comprising:
    - i) planting homozygote black seed coat soybean plants in separate, alternate rows in the same field as cultivars that contain the proprietary traits and that are not homozygote black seed coat soybean plants;
    - ii) harvesting grain from the rows planted with the cultivars that contain the proprietary traits and that are not homozygote black seed coat soybean plants; and
    - iii) replanting the grain in separate, alternate rows in the same field as homozygote black seed coat soybean plants and harvesting the grain over at least one additional generation; wherein only the rows planted with the grain are harvested.
  17. (Original) The method of claim 16 wherein the black seed coat seeds are used to create a mechanical mix of seeds comprising:
    - i) separating the black seed coat seeds from the harvested grain;
    - ii) propagating the black seed coat seeds through at least one generation of self-pollination; and
    - iii) mixing a known quantity of black seed coat seed with seed of the yellow seed coat variety.
  18. (Original) The method of claim 17 further comprising growing the mixture containing a known quantity of black seed coat seeds with the commercial cultivar seeds in the last season of seed increase prior to commercial sale.